

Appl. No. 10/620,903
Amdt. dated Nov. 5, 2008
Reply to Office action of May 5, 2008

Amendments to the Drawings:

The attached sheet of drawings includes changes to Figure 10. This sheet replaces the original sheets including Figure 10. The changes to the Figure are described in the previous amendments to the Specification.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

Claims 2-7 and 10-27 remain in the application. Claims 1 and 8-9 have been canceled without prejudice. Claims 2-7 and 10-27 were rejected in the Office Action mailed May 5, 2008 (hereinafter referred to as "Office Action"). Applicant respectfully submits a Request for Continued Examination and a three month extension of time to respond to the Office Action. A credit card authorization is being submitted electronically with the filing of this response. Accordingly, applicant respectfully submits that this response is timely filed on November 5, 2008. It is believed that no fees are due at this time. In view of the following remarks and amendments, applicant respectfully request a timely Notice of Allowance be issued in this case.

Drawing Objections

The drawings were objected to for including reference character(s) not mentioned in the description and multiple reference characters used to designate the same element. The Office Action refers to reference signs 112 and 258 in Figure 2A. Applicant interprets this to refer to Figure 2B. Note that reference 108 in Figure 1 refers to PPO and Major Medical Premiums, whereas reference 254 in Figures 2B and 10 refers only to a Major Medical Premium. Similarly, reference 112 in Figure 1 refers to a PPO Fee and a Major Medical Payment, whereas reference 258 in Figures 2B and 10 refers only to a Major Medical Payment. In addition, applicant respectfully submits that reference sign 406 in Figure 4 is referred to in paragraph 38 of the specification. Moreover, applicant respectfully submits that reference sign 202 used in the specification regarding Figure 7 was changed to 104 in the last response. Applicant respectfully submits that the foregoing amendments to the specification and drawings are fully responsive and overcome the objections. Reconsideration and removal of the objections are respectfully requested.

Double Patenting

Claims 1-22 were provisionally rejected on the ground of non-statutory obviousness-type double patenting over claims 1-7, 11-12, 21-23 and 26-28 of U.S. Patent Application No. 10/620,904. Applicant respectfully submits that appropriate action (amendment, cancellation or the filing of a terminal disclaimer) will be taken if the double patenting rejections remain after the allowance of any applicable claims.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1-7 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Care Entrée (<http://web.archive.org/web/20011130030647/http://carentree.com>, 2001) in view of Lipton, et al. ("Pharmacy benefit management companies: Dimensions of performance", Annual Review of Public Health, Palo Alto 1999, Vol. 21, page 31), further in view of Goch ("A new Card Deal." Best's Review. Oldwick: Jul. 2002 (Vol.

103, Iss. 3, page 73). In addition, claims 10-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Care Entrée in view of Lipton and Goch, and further in view of U.S. Patent No. 5,819,092 to Ferguson, et al. Claims 21-27 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Care Entrée in view of U.S. Patent No. 5,819,092 to Ferguson, et al. Applicant respectfully submits that claims 2-7 and 10-27 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103(a) for the reasons stated below.

Claims 20-22

Applicant respectfully submits that claims 20-22 are allowable under 35 U.S.C. § 103(a) because the cited references do not disclose, teach or suggest:

providing a pharmaceutical listing for the pharmaceuticals based on the obtained information, wherein the pharmaceutical listing is accessible by the members via a global telecommunications network, comprises basic listings and premium listings for the pharmaceutical companies, and is searchable by the members using one or more search criteria comprising a geographic area or a pharmaceutical provided by the pharmaceutical companies; and

providing a discount price list to the members via the global telecommunications network, wherein the discount price list comprises published rates for the pharmaceuticals provided by the pharmaceutical companies for two or more geographic areas and each member can only access the published rates for the geographic area associated with the member, and the discount price list regulates the cost of pharmaceuticals provided to the members by a pharmacy benefit manager such that the members pay the pharmacy benefit manager in-full directly for any pharmaceuticals provided to the members based on the discount price list,

as recited in claims 20-22. The Office Action stated “Care Entrée program fails to teach a method providing a discount price list and a pharmaceutical listing to the members that regulates the cost of pharmaceuticals provided to the members by a pharmacy benefit manager such that the members pay the pharmacy benefit manager in-full directly for any pharmaceuticals provided to the members based on the discount price list, and wherein the pharmaceutical listing comprises basic listings and premium listings for the pharmaceuticals” (page 10, lines 14-18), and “Lipton fails to teach a method in which the members pay the pharmacy benefits manager in-full directly for any pharmaceuticals provided to the members based on the discount price list” (page 10, lines 23-24), but that Goch cures this deficiency (page 11, lines 1-5). Applicant respectfully disagrees that Goch cures this deficiency.

First, applicant respectfully submits that Lipton merely discusses traditional pharmacy benefit management companies as they existed in 1999 (Abstract). In addition, the discount lists in Lipton are not provided to the individuals or members to which the services/goods are provided. Instead, the discounts described in Lipton are provided are between the PBM and the insurance company, pharmacies and/or the pharmaceutical companies (paragraph 7, lines 9-11). As a result, Lipton does not cure the deficiencies of Care Entrée.

Second, applicant respectfully submits that it would not have been obvious to one of ordinary skill in the art at the time the invention was made to provide members with a pharmaceutical listing containing basic and premium listings for the pharmaceuticals because the insurance, HMO, PBM, and PPO industries teach against any sort of favoritism or competition among companies offering goods or services directly to individuals within their networks. As a result, the modifications identified in the Office Action based on Ferguson would “change the principle of operation of the prior art invention [Care Entrée and Lipton] being modified.” MPEP § 2143.01 (VI). As a result, “the teachings of the references are not sufficient to render the claims *prima facie* obvious.” MPEP § 2143.01 (VI).

Third, applicant respectfully submits that Care Entrée, Lipton and Goch do not disclose teach or suggest providing providing the discount price list to the members via the global telecommunications network as recited in claims 20-22.

Fourth, applicant respectfully submits that Care Entrée, Lipton and Goch do not disclose teach or suggest providing a medical service/good provider listing for the medical service/good providers based on the obtained information, wherein the pharmaceutical listing is accessible by the members via a global telecommunications network, comprises basic listings and premium listings for the pharmaceutical companies, and is searchable by the members using one or more search criteria comprising a geographic area or a pharmaceutical provided by the pharmaceutical companies, and providing a discount price list to the members via the global telecommunications network, wherein the discount price list comprises published rates for the pharmaceuticals provided by the pharmaceutical companies for two or more geographic areas and each member can only access the published rates for the geographic area associated with the member, as recited in claims 20-22. In addition, applicant respectfully submits that it would not be obvious to combine the non-Internet based systems of Care Entrée, Lipton and Goch with Ferguson’s “software development tool”.

For all these reasons, applicant respectfully submits that the cited references do not disclose, teach or suggest all the elements recited in claims 20-22, as amended. Accordingly, claims 20-22 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that the rejection of claims 20-22 be withdrawn.

Claims 2-7, 10-19 and 24-27

Applicant respectfully submits that claims 2-7, 10-19 and 24-27 depend from claims 20 or 23, as amended, which are allowable for the reasons stated above, and further distinguish over the cited references. Claims 2-7, 10-19 and 24-27 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that any rejection of claims 2-7, 10-19 and 24-27 be withdrawn.

With respect to claims 23-27, applicant respectfully submits that the cited references do not disclose, teach or suggest that the pharmaceutical benefit program comprises a network of two or more pharmacies, or the use of a variable discount drug price list. Moreover, applicant respectfully submits that it would not have been obvious to one of ordinary skill in the art at the time the invention was made for a network of pharmacies to provide members with a variable discount drug price list because the insurance, HMO, PBM, and PPO industries teach against any sort of favoritism or competition among pharmaceuticals offered directly to individuals within their networks. As a result, the modifications identified in the Office Action based on Ferguson would "change the principle of operation of the prior art invention [Care Entrée and Lipton] being modified." MPEP § 2143.01 (VI). As a result, "the teachings of the references are not sufficient to render the claims prima facie obvious." MPEP § 2143.01 (VI). Accordingly, claims 23-27 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that the rejection of claim 23 be withdrawn.

Conclusion

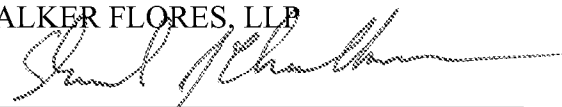
For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 2-7 and 10-27, as amended, are fully patentable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Date: November 5, 2008

Respectfully submitted,

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